S.B. CIVIL SECOND APPEAL NO.80/2005

Om Prakash vs. Manohar Lal.

Date : 8.8.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. BR Mehta, for the appellant.
Mr. M Shishodia, for the respondent.

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Heard learned counsel for the parties.

After going through the facts of the case, I do not find that any substantial question of law is involved. I have also gone through the findings recorded by the courts below. Both the courts below have concurrently found that the defendant/appellant/tenant denied the relationship of landlord and tenant and the plaintiff is also in need of the suit premises.

In view of this, this appeal is hereby dismissed.

However, learned counsel for the appellant prays that some time may be granted to the appellant to vacate the premises as the appellant is a petty shopkeeper and he will have to make many arrangements for shifting his business.

Looking to the totality of the facts, it will be just and proper to permit the appellant to grant some time to vacate the premises upto 31.8.2006.

Therefore, it is ordered that in case, the appellant

furnishes a written undertaking before the trial court within a period of one month that he shall hand over the vacant possession to the landlord by or before 1.9.2006 ; shall not transfer or sublet the premises in question and shall pay all the decreetal amount arrears of rent, if due, within a period of two months from today, the decree under challenge shall not be executed till 1.9.2006. The appellant shall also deposit the rent month by month by 15th day of each succeeding month of his tenancy in the trial court. In case of non-compliance of the order or default in payment of rent mentioned above, the decree shall become executable forthwith.

(PRAKASH TATIA), J.

S.Phophaliya